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MAY 11 2004

In re Application of  
Harry Meade et al  
Application No. 09/012,904  
Filed: January 23, 1998  
Attorney Docket No. TCI-028DV

OFFICE OF PETITIONS  
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 6, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed September 10, 2003, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). Since the amendment submitted does not *prima facie* placing the application in condition for allowance, no Notice of Appeal (and appeal fee), or a continuing application was timely filed. Extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 11, 2004.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy

copy of this decision is being mailed to the person signing the instant petition, **all** future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

Pursuant to petitioner's authorization, Deposit Account No. 50-2092 was charged a total of \$1,050.00 -- \$665.00 for the petition to revive an unintentionally abandoned application and \$385.00 for the request for continued examination (RCE).

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being referred to Technology Center AU 1636 for processing of the request for continued examination (RCE) under 37 CFR 1.114.

  
Wan Laymon

Petitions Examiner

Office of Petitions

Office of the Deputy Commissioner  
for Patent Examination Policy

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